



Sansone Projects Ltd  
For the Attention of Martin Sansone  
7/1 74 York Street. Glasgow G2 8JX  
By Email: [REDACTED]

23 December 2019

Dear Mr Sansone

INVITATION TO TENDER FOR:  
DDDIS022019 TECHNICAL AND INDUSTRY EXPERTISE IN DIGITAL IDENTITY

Thank you for your tender dated 17 December 2019. We have now completed our evaluation of all tenders received and on behalf of Scottish Ministers we are pleased to confirm acceptance of your tender for the above requirements.

The documents listed below shall be deemed to form part of the Contract:

- This Contract Award letter;
- The Scottish Ministers Specification of Requirements attached at Annex A;
- Sansone Projects Ltd tender response dated 17 December 2019 and attached at Annex B; and
- The Scottish Government terms and conditions attached at Annex C.

The contract will commence on 13 January 2020 and end on 31 March 2020 unless terminated in accordance with the Terms and Conditions. The total value of the contract is £30,000 (exclusive of VAT). Invoices shall be submitted on a monthly basis and payment shall be made within 10 days of a valid invoice being received.

Please acknowledge receipt of this Contract Award letter by signing at the dedicated section below by 6 January 2020 and returning for my attention at the address below.

Please note that the Contract Manager is [REDACTED]  
Telephone [REDACTED]

Please do not hesitate to contact me directly should you have any questions about the content of this letter.

Yours Sincerely

[REDACTED]

Simon Lucas  
Delegated Procurement Officer  
Scottish Government  
1G South, Victoria Quay  
EDINBURGH, EH6 6QQ

On behalf of **Sansone Projects Ltd** I hereby acknowledge receipt of this Contract award letter.

**Signature**

**Position**

**Name**

**Date**

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**Annex A – Scottish Government's Specification of Requirements**

## SPECIFICATION

### Section 1 – Introduction

The DIS programme sits within the Data, Statistics and Digital Identity Division within the SG Digital Directorate and was established in late-2017. Discovery and Alpha exercises have been conducted in conjunction with various partners.

### Section 2 – Background & Context

1. The Digital Identity Scotland (DIS) Programme was initiated to meet the Scottish Government's Digital Strategy commitment to work with stakeholders, privacy interest groups, and members of the public to develop a robust, secure and trustworthy mechanism by which an individual member of the public can demonstrate their identity online when the access public services.
2. The intention is to create a common approach which would apply across multiple public services. This would enable individuals to create a digital identity, which then can be used and re-used for secure access to personalised services from public service providers. This would contribute to a simplified landscape for access to public services, which is consistent across multiple service providers, and easy to use for individual citizens.
3. There is a clear commitment in the Scottish Government's Programme for Government and Scotland's Digital Strategy to introduce shared technology platforms as a core part of the process of public service reform, starting with common approaches to publishing information, applying for services, making/receiving payments, and identity Assurance.
4. The Digital Identity Scotland Programme team require specific architecture, technical and industry expertise in the areas of Digital Identity and Platform as a Service (PaaS).

<https://www.gov.scot/publications/realising-scotlands-full-potential-digital-world-digital-strategy-scotland/pages/3/>

5. As the public sector landscape changes, the way people want to interact with public services is also changing. More and more public services, such as accessing council services or applying for a Social Security entitlements, are being made available online. To access these services, people may need to prove who they are online. Where this is necessary, most people want to do so in a safe and secure way, exchanging as much information as necessary and, ideally, don't want to have to repeat the process over and over again when accessing additional public services. The Digital Identity Scotland Programme has been working since late 2017 to achieve this Programme for Government and Digital Strategy objective.

6. The OIX Whitepaper produced at the end of Alpha (June 2019) asserted a staged approach from verified identities towards an attribute model. An independent expert review commissioned by the programme in August 2019 asserted that the time to explore attributes is now. In light of this, DIS are seeking to create an attributes strategy to define how to take this work forward, in conjunction with a prototype (separate procurements) to then create a plan towards a live service for citizens to prove their identity in order to access public services as above.

7. The key outcomes of this procurement will be to support the design and architecture for the DIS attributes prototype, evaluate the prototype, refine the Scottish Government Attribute Strategy, support the Scottish Government to

influence the content of GDS new Trust Framework and identify and apply learnings for the enterprise architecture of a digital identity Service.

### **Section 3 – Scope /Statement of Requirement**

In order to support the current programme phase between January 2020 and the end of March 2020, the Digital Identity Scotland Programme team require specific technical and industry expertise in the field of Digital Identity to support the successful development of a planned prototype: This will include:

1. Continue with research and technology evaluations of Identity models being developed in other countries and governments.
2. Provide technical subject matter expertise into the target operating model for Digital Identity and attribute strategy.
3. Review and update the current proposed architecture in collaboration with technical team, to generate an agreed design and plan for future phases.
4. Draft the attribute strategy and high level implementation roadmap
5. Provide quality assurance on the outputs of delivery partners, approving choices through technology options appraisals, and support the delivery of the prototype phase.
6. Build and maintain architectural artefacts, looking ahead and identifying future opportunities or potential blockers.
7. Provide an expert steer on critical areas associated with identity and attribute standards, technology and identity models across the world.
8. Help enable the reuse of patterns, tools, and components.
9. Provide knowledge transfer to the SG Digital Identity Scotland teams through appropriate documentation and engagement, identifying all tasks undertaken.

### **Section 4 - Contract Period**

The Supplier must commit to being on-site in Victoria Quay, Edinburgh at least 3 days per week for the contract period, as well as travel within Scotland to other SG building sites as required. Travel to and from Victoria Quay is expected to be at the supplier's expense, travel expenses to the other locations will be reimbursed under Scottish Government travel policy and guidance.

All proposed individuals must have a certificate for a Basic Disclosure Scotland check prior to the contract start date. They must complete the Scottish Government Security process prior to starting work on site to allow them to work within our offices. This can take two weeks to complete.

The duration of this contract is three months. The contract shall commence on the 13 January 2020 and expire on 27 March 2020.

The maximum value of the contract awarded will not exceed £30,000 excluding VAT

## **Section 5 – Data Protection**

No personal data will be involved in this work.

## **Section 6 – Outputs and Key Deliverables**

The role of the supplier is to deliver the following outcomes for the Digital Identify Scotland Programme:

- 1) Review and update the current proposed architecture in collaboration with programme team, to generate an agreed design and plan for the prototype and future phases for Digital Identity Scotland.
- 2) Define the architecture roadmap for each of the platform services, alongside specialised SG staff and other suppliers.
- 3) Build and maintain architectural artefacts, looking ahead and identifying future opportunities or potential blockers.
- 4) Provide research analysis and expert advice on Digital Identity models and standards.
- 5) Deliver documentation as and when agreed with SG staff.
- 5) Provide knowledge transfer to the SG Digital Identity Scotland teams through appropriate documentation and engagement, identifying all tasks undertaken.

## **Section 7 – Performance Measures and Reporting**

Reporting requirements and key performance indicators will be agreed upon at the inception meeting (see next section on Contract Management).

To assist the Supplier to deliver the work, the Client will provide support iteratively and will meet as a minimum once per fortnight. The first of such meeting should happen immediately after the initial Client senior stakeholder workshop in order to refine, within the scope of this arrangement, the agreed requirements.

## **Section 8 – Milestones and Timetable**

It is expected that payment to the supplier will be on a monthly basis for the duration of the contract; To a maximum of 3 months.

## **Section 9 – Interfaces/Interdependencies**

There are no interdependencies for other projects or contracts, beyond those that exist for the wider DIS programme.

Timescales have been specified such that this work will be completed before contract award for the proposed first implementation phase for DIS.

## **Section 10 – Key Risks and Responsibilities**

Contract length may result in insufficient time for depth of analysis and review required.

## **Section 11 – Contract Manager contact details**

The Contract Manager will be [REDACTED]

Address: Area 1F South , Victoria Quay, Edinburgh, EH6 6QQ

## **Section 12 – End of Contract and Exit Arrangements**

The Supplier will meet with senior project stakeholders in initial inception workshop(s), for the purposes of:

- Clarifying the scope of the work
- Agreeing the timescales for any deliverables
- Making suitable exit arrangements

The supplier is required to transfer knowledge to the SG Digital Identity Scotland team through appropriate documentation and engagement, documenting all tasks undertaken.

## **Section 13 – Definitions**

The expert supplier is expected to understand any technical language that is contained in the document. However, any clarifications can be raised during the questions phase of the procurement.

## Quality Questions

QUALITY AWARD CRITERIA	Section Weighting	
<b>SECTION 1. METHODOLOGY &amp; DELIVERY APPROACH</b>	<b>30%</b>	<b>Question Weighting</b>
<p><b>Q1.</b> The tenderer must clearly explain their proposed approach to delivering the services and outline the suitability, robustness and limitations of the proposed methods. This should include your ability to work flexibly and meet the timescales outlined in the specification.</p>		40%
<p><b>Q2.</b> Tenderers should provide a statement demonstrating a full and clear understanding of the requirements as detailed in the Section 3: Scope/Statement of Requirements. The response should explain why the tenderer's organisation is best positioned to deliver this contract.</p>		60%
<b>SECTION 2. STAFFING AND CAPABILITY</b>	<b>60%</b>	
<p><b>Q1.</b> Tenderers should provide details of the resource(s) they propose to deliver this contract, a copy of their CV highlighting their specific skill-set and experience in relation to Digital Identity and/or Attributes services.</p> <p>Please highlight, in particular, the resource(s):</p> <ul style="list-style-type: none"> <li>• experience of working in this or a related field</li> <li>• technical / professional credentials</li> <li>• experience of delivering transformational digital solutions within Government or the Public Sector</li> <li>• lead times for availability of resource where this is greater than 1 month.</li> </ul> <p>This should include details of how they will manage and support their proposed resource(s) through the duration of the requirement.</p>		70%
<p><b>Q2.</b> The tenderer must provide two examples of recent relevant previous commissions related to Digital Identity and/or Attribute services, in order to demonstrate your capability to deliver this requirement. Please indicate if these were led by proposed team members and highlight their relevance to the commission requirements.</p>		30%
<b>SECTION 3. TIMETABLE AND DELIVERY</b>	<b>10%</b>	
<p><b>Q1.</b> The tenderer must provide a timetable for delivery of each of the key tasks. The timetable should highlight outputs and project milestones as well as allocation of staff and staff time against each task.</p>		100%

Please ensure when preparing your Proposal that you clearly state which question is being answered. Any additional detail that you wish to provide as part of your Proposal should also be cross referred to the relevant question.



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**Annex B – Sansone Projects Ltd Tender Response**

Sansone Projects

# Scottish Government Digital Identity Technical Expertise

Technical Proposal 17 December 2019

## Introduction

Sansone Projects is pleased to respond to The Scottish Government's Procurement and Digital Identity Scotland (DIS) Programme's Invitation to Technical and Industry Expertise in Digital Identity - Support and Development Services for the planned prototype.

This document contains our technical proposal which addresses the direct questions asked in the Invitation Schedule 4 Section 2: Quality Questions and includes our plan, approach, resource, solution and background on our culture.

Our approach is to provide a single member (Martin Sansone) of Sansone Projects Ltd to meet the needs of the DIS Programme outputs defined within this tender. This approach allows the work to benefit from Martin's broad range of skill sets, understanding and current experience of the digital identity landscape while keeping to the defined budget.

The focus will be on reviewing and agreeing the proposed architectures, roadmaps and planning for the future phases of the programme. In addition we will provide research analysis and expert advice on the various Digital Identity models and available standards, delivering relevant artefacts and knowledge transfer as appropriate to the project team.

Sansone Projects considers the technical expertise and active development in Identity platform solutions, tokenisation and security solutions for numerous clients internationally, combined with our attention to detail and collaborative working make us the ideal partner to deliver this work on the shared technology platform projects of The Scottish Government.

## Quality Award Questionnaire

### SECTION 1. METHODOLOGY & DELIVERY APPROACH (Weighting 30%)

Response

**Q1** 40%

Sansone Projects will assign Martin Sansone to support this engagement. He is our principal architect and chief technical officer, a certified software engineer and solution developer, project manager, member of the Information Architecture Institute and qualified accountant. He has extensive experience in setting the vision and development for seventeen platform solutions connected with identity tokenisation and attribute based profiles for clients across America and Europe in the travel and tourism sector, governments, high street retail and energy sectors.

To maximise the time available in this three month contract period, Martin will collaborate across all members of the project team to utilise individuals' domain knowledge, understand the nuances of the various stakeholders and draw on the projects documentation and progress to date in order to support the design, co-development with external partners and success of the DIS attributes prototype.

With a focus on positive achievable outcomes, the following aspects make up the proposed approach to delivering the services required:

Aspects	Description	Benefits & Limitations
Answering current stage unknowns	Effort will initially begin on answering the current stage unknowns in how the various services of the prototype need to work together. This is a cross-cutting exercise requiring a mix of the two following two aspects, along with close involvement with the prototype development partners to categorise and record methods of achieving the solution, along with any issues related to later stage use.	Promoting this approach within the team will: <ul style="list-style-type: none"> <li>• demonstrate design suitability,</li> <li>• stimulate discussion and</li> <li>• achieve agreement across the project team for achieving both the prototype success and next stage planning</li> </ul>
Help formalise the User-Centred Design Process	This provides a pooling of knowledge, processes and inputs from future users within a user-centred design approach based around the activities of: <ol style="list-style-type: none"> <li>1. Specifying the context of use;</li> <li>2. Specifying requirements;</li> <li>3. Create design solutions;</li> <li>4. Evaluation of the designs;</li> </ol> This validates wider architecture thinking, ensures user involvement and buy-in of the resulting solution and reduces project risk.	
Identify the attribute model for prototype stage	Identify a short list of suitable attributes and the data model required to prove out the prototype	

Discuss & Agree on Suitable Services & Technologies	Advise and steer the team in considering feasible options available in the market place and selecting the most suitable technical solutions to achieve the tasks at hand.	
Assess identity binding mechanisms	Jointly assess the binding mechanisms to be used with the prototype partners and project technical team.	
Set the evaluation criteria of the prototype	Work with the project team to identify evaluation criteria for the prototype. Criteria to include usability/user friendliness; technical lessons learned; complexity; remaining issues; influence on later stages; forecasted cost model of later stages	
Refining SG Attribute Strategy	Provide iterative updates to the SG Attribute Strategy with feedback from various stakeholders including GDS and other technical resources.	
Influence GDS	Work with GDS Members, OIX Working Groups and other influencers to ensure that the new GDS Trust Framework supports the objectives of DIS	
Expand understanding of Identity models abroad	Coordinate activities and Expand on connections already made to other countries in following developments of their Identity models – feeding back into the DIS Programme any progress being made and possible implications.	
TOM Development	Coordinate and contribute to the activities of developing the Target Operating Model for Scotland's Digital Identity and Attribute Strategy	
HLD/LLD and Roadmap	Complete the Attribute Strategy and collaborate with the project team to merge this strategy into the solution design and identify a workable high level implementation roadmap through to production.	
Quality Assurance and Overview	Hold regular QA sessions with prototype partners and project team members to consider solution design choices; retroactive assessments of work achieved; and keeping project management informed of future impacts / opportunities	

Support wider Architecture Dept	Where relevant use inputs from other platform initiatives (internal & external to SG) in aiding the reuse of patterns, tools and components across SG	
Knowledge Transfer	Keep a diary of activities participated in and provide suitable updates to the DIS Programme via tools such as Slack, Jira and Confluence as well as producing suitable artefacts when required to ensure that the knowledge and experience inputted to the project remains within DIS at the end of the contract.	

Response

Q2

60%

Solving the right problems within the prototype phase enables a clearer vision to how the Scottish Government can achieve its digital identity aspirations.

We are at the global tipping point in the evolution of digital identity. The UK's initial attempt at a modern digital identity with the "Verify" model has failed and numerous countries around the world are trying out new technologies and standards in an attempt to realise the vast benefits on offer for countries that introduce citizen accepted modern digital identity solutions.

Each country is unique in its cultural heritage, societal expectations, and requirements for a digital identity. Yet, there are important examples (both successes and failures) to be drawn from other nations in this space, along with developing standards, that Martin will consider as part of refining the draft Scottish Government Attribute Strategy and reaching consensus within the project team on the design of the overall DIS solution (Target Operating Model).

It is imperative that consensus on the DIS solution needs to fit within the UK's wider ambition of a replacement to Verify in the form of GDS' new Trust Framework. This is also a key aspect of our proposed approach for Martin to assist the DIS Programme objectives by being part of the core team influencing GDS' development towards a final UK solution which, includes capability options that can be configured to best serve the interests of Scotland's citizens.

Martin can call on previous experience acting as the Communications Director for the AESIF organisation representing the NGO over 3 years, along with other organisations such as Corgi, in negotiations and industry influence with the UK Government in formulating the electrical safety rules (Part P) into the UK Building Regulations 2005.

More widely, Sansone Projects is a Scottish FinTech MVP software incubator and Contract Consultancy monetising disruptive internet business ideas as well as providing architecture services, project management and other essential technical services such as systems accountancy, business analysis, data migration, PSD2 and PCI-DSS payment industry implementations, ISO and NCSC security measures and software development. Core service

specialisms consist of Enterprise Architecture; Payment Solutions & Security Design and Project Management.

#### PPaaS Payment Solutions: CalMac

Delivering systems and digital transformation using Agile methods is a common feature of our services to clients. In the development of the new payment solutions provided to CalMac Ferries, a mix of client internal and external resources partly matrix managed were pulled together as a multidisciplinary self-organising team to tackle the project. Analysing the current state of services, data and processes. Using an iterative process to the understanding and design of the solutions the team ran a Scrum methodology to build up assessment of user needs, dependencies and constraints along with technology appraisals to reach a recommended and approved approach, with roadmaps, to building out each of the services over a period of three years.

The transformation of payment services at CalMac included assessment of all the major UK payment service providers, their technologies and commercial products as well as the current public sector procurement frameworks in operation. This resulted in the selection of Worldpay as the sole provider of inbound payment services (Acquiring and Processing) and the deep understanding and technical integrations of encrypted tokenised payment data flows over the payments platform for multi payment channel types.

#### PPaaS Architecture: Scottish Government Digital Transformation

Iterative development enabled the understanding of payment requirements, risks and resolution of unknowns connected with the Scottish Government Payments Project. This TOGAF enabled methodology of design iteration led to the architectural draft modelling of the SG Payments Service as a fully-fledged Payments Platform as a Service (PPaaS) as the target operating model. This model and the user requirements were then used as a basis for the 17 week Proof of Concept (PoC) where Martin as the Enterprise Architect steered the supplier development team to bottom out answers to a number of objectives contained within the PoC work package.

Following the success of the PoC, Martin then led in the design and preplanning of the Alpha stage for the Payments Project, working with stakeholders and the project team to identify specifications and crafted the technical sections for publication of the Alpha Stage ITT. Before moving on to the Scottish Governments Digital Identity programme to assist in formulating the next steps of the DIS project – focussing heavily on standards; attribute design and trust.

#### PaaS: Together Energy

Working with key stakeholders of the customer services department of Together Energy identified the need to migrate a multitude of CRM systems into a single CRM platform as a service. The architectural design, integration of legacy systems and data sources into the platform via a standardised API utilising ETL tools provided a unified solution and streamlined training experience for the client.

#### PaaS: Nottingham City Council Benefit Service

Assisted Kendrick Ash in technical improvements with Nottingham City Council Benefit Service resulting in a reduction in new claims processing by 78%, a reduction in caller waiting time from 2 hours to 11 minutes and financial improvements of £3.2M

The above examples of work previously undertaken is directly relevant to the delivery of requirements detailed within the invitation to tender related to this proposal. The work undertaken in each instance:

- consumed existing information upon appointment
- collaboratively worked as part of a multifunctional team
- provided subject matter expertise and leadership
- defined architecture and roadmaps for platform and other services
- negotiated with and provided quality assurance on the outputs of delivery partners
- built architectural artefacts and training materials
- identified issues and proposed resolutions / mitigation
- lead in security aspects of cyber security and privacy
- provided knowledge transfer to the client teams and ensured ongoing management of systems were in place.

It is for all of the above reasons given throughout Section 1 that we believe that Sansone Projects is the best choice to be chosen to deliver this contract.

**SECTION 2. STAFFING AND CAPABILITY (Weighting 60%)**

Response

Q1

70%

Sansone Projects will assign Martin Sansone to support this engagement.

During the last five years Martin has applied his TOGAF and ITIL training in the design and delivery of a multi-tenant payments platform (PaaS) providing multiple channel services at Caledonian MacBrayne Ferries (CalMac) in Scotland, building multiple API integrations including an IVR payment implementation, upgrading security systems, tokenisation, encryption methods and achieving PCI-DSS Level 2 Compliance on the solutions. Separately he also provided CalMac with the design, procurement and implementation of a networked EPOS solution with an integrated digital payments solution across their large vessel ferry fleet. In accomplishing these outcomes Martin drew heavily upon his deep understanding and experience of software engineering and infrastructure when working with external suppliers to ensure the solutions were fit for purpose and delivered fully.

More recently, the last twelve months, he has provided Enterprise Architecture work for the Scottish Government, leading in the architecture of the payment platform service based on user needs gathered within the project, identifying and investigating unknowns, and working with other departments and external suppliers in the development of the projects' initial phase. Providing the technical input and artefacts to successfully build a working proof of concept (PoC) and following on with the design and planning for the next stage Alpha build within the Payments Project, including technical production of materials for the ITT and subsequent advisory feedback to the project team regarding assessment of tenderers.

The success in this post has led to two new interactions – the first being the Technical Assessor for the 2019 CivTech Challenge where Martin advised across the 12 challenges, including multiple instances of Identity related proposals for challenge sponsors.

The second has been a three month role as Enterprise Architect supporting DIS in their evaluation of Attributes based identity services and next step decisions in the project. During this time, Martin has utilised his deep background in software engineering and technical research abilities to accurately assess both the current Standards and Attribute landscapes, at what level of maturity they are at and how governments and private enterprise are attempting to implement these in solving common problems around the world.

Martin has extensive experience over the years with working for government organisations, is flexible to the needs of the client – being able to travel to locations when needed and work additional days to achieve tight deadlines when necessary. We consider that he is a good cultural fit for dynamic high profile transformation projects such as this one with SG DIS

A copy of Martin's CV covering more detail of relevant experience is enclosed separately.

Martin is available from the 13<sup>th</sup> January 2020 to continue his work on Identity solutions with the Scottish Government and can commit to the requirements and specifications detailed.

Q2

30%

Sansone Projects is fully aware of the importance and progress to date of the Scottish Governments' Identify project, the Scottish Governments Digital Standard, the Scottish Approach to Service Design and the level of security required for the services.

Two examples of recent previous commissions relating to Digital Identity / Attribute services are:

#### API Development: Tourism & Finastra

Working across the full software development lifecycle, the Sansone Projects team have recently standardised a set of booking engine API's for a tourism sector client that includes Identity management, two factor authentication, advanced tokenisation within credential management and attributes based profile storage. This work resulted in the development of a demonstration concept of a new payments platform with applications utilising, in part, Finastra's new Open API banking infrastructure.

#### Payments & Identity Project

The work undertaken for Scottish Government on the Payments Platform Project included the design and support for attributes led record storage to assist in SG's vision for common platforms and improved management reporting.

Secondly, the work requirement expanded out to include assistance on the Digital Identity Scotland programme in the research, discovery and identification of standards, the concept of trust in identity systems and the adoption of an attributes mechanism for proving identity. This work since August 2019 provides valuable insight to the latest thinking globally on digital identity.



**SECTION 3. TIMETABLE AND DELIVERY (Weighting 10%)**

Response

Q1

100%

Allocation of Martin Sansone to SG DIS will be at a minimum 3 FTE days per week. Flexible to work at the direction of the project leadership team.

Milestones

Task	Delivery Estimate
Review and update the current proposed architecture in collaboration with programme team, to generate an agreed design and plan for the prototype and future phases for Digital Identity Scotland.	03/02/2020
Define the architecture roadmap for each of the platform services, alongside specialised SG staff and other suppliers	14/02/2020
Build and maintain architectural artefacts, looking ahead and identifying future opportunities or potential blockers	07/02/2020 through 20/03/2020
Provide research analysis and expert advice on Digital Identity models and standards.	07/02/2020 through 25/03/2020
Deliver documentation as and when agreed with SG staff.	14/01/2020 through 25/03/2020
Provide knowledge transfer to the SG Digital Identity Scotland teams through appropriate documentation and engagement, identifying all tasks undertaken.	14/01/2020 through 25/03/2020
Provide assistance in influencing GDS	14/01/2020 through 25/03/2020

**Pricing Schedule (20%)**

**INVITATION TO TENDER – PROVISION OF TECHNICAL AND INDUSTRY  
EXPERTISE IN DIGITAL IDENTITY**

**Commercial Evaluation**

**The commercial evaluation shall be based on the total Fixed Price for delivery of the Services.**

The tenderer who submits the lowest price will be awarded the full weighting available (100%). Other tenderers will be awarded a price score based on the percentage difference between their offer and that of the lowest offer.

Rates and prices (ex-VAT) shall be deemed inclusive of all additional expenses howsoever incurred.

Cost will be firm for the duration of this contract. Charges which appear elsewhere in the proposal but which are not summarised in this Schedule, will be presumed to have been waived.

Payment shall be made in arrears on submission of detailed and accurate invoices.

The total cost for the service should be quoted in Pounds Sterling (£) and should be exclusive of any VAT which may be chargeable. The total price must cover all aspects of the requirement, liability for all costs and access to data, overheads, and participation in any dissemination activity that is envisaged in the specification.

**PRICING SCHEDULE**

**Total Firm Price for Delivery of the Contract (20%)**

1. Please submit a firm price in pounds sterling and exclusive of VAT for the total cost.
2. Firm prices should also be inclusive of any other costs that you anticipate will be required to meet the requirements of the contract. These costs could include staff costs, attendance at meetings, equipment and materials, overheads and any other category not included in this list.
3. The Commercial evaluation will be based on the Total Firm price proposed for the work:

*Please enter your Name and Total Firm Price in the table below:*

<b>Supplier Name</b>	Sansone Projects Ltd
<b>Total firm price (excluding VAT)</b>	£30,000

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**Annex C – The Scottish Government Terms and Conditions**



**THE SCOTTISH GOVERNMENT  
SCOTTISH GOVERNMENT TERMS AND CONDITIONS 2 (SGTC2)  
CONDITIONS OF CONTRACT FOR THE PURCHASE OF SERVICES**

**These Conditions may only be varied with the written agreement of the Purchaser. No terms or conditions put forward at any time by the Supplier shall form any part of the Contract unless specifically agreed in writing by the Purchaser.**

**1. DEFINITIONS**

In these Conditions:

“Contract” means the contract between the Purchaser and the Supplier consisting of the Purchase Order, these Conditions and other documents (or parts thereof) specified in the Purchase Order;

“Data Controller”, “Data Processor”, “Data Subject” and “Data Subject Access Request” have the meanings given in the Data Protection Laws;

“Data Protection Laws” means any law, statute, subordinate legislation, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body which relates to the protection of individuals with regard to the processing of Personal Data to which a Party is subject including the Data Protection Act 1998 and any statutory modification or re-enactment thereof and the GDPR;

“GDPR” means the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

“Intellectual Property Rights” means all copyright, patent, trademark, design right, database right and any other right in the nature of intellectual property whether or not registered, in any materials or works in whatever form (including but not limited to any materials stored in or made available by means of an information technology system and the computer software relating thereto) which are created, produced or developed as part of the Services by or on behalf of the Supplier;

“Personal Data” has the meaning given in the Data Protection Laws;

“Premises” means the location where the Services are to be performed, as specified in the Purchase Order;

“Processing” has the meaning given in the Data Protection Laws and cognate expressions shall be construed accordingly;

“Purchase Order” means the document setting out the Purchaser’s requirements for the Contract;

“Purchaser” means the Scottish Ministers;

'Services' means the services to be provided as specified in the Purchase Order and shall, where the context so admits, include any materials, articles and goods to be supplied thereunder;

'Supervisory Authority' has the meaning given in the Data Protection Laws; and

"Supplier" means the person, firm or company to whom the Contract is issued.

## **2. CHANGE TO CONTRACT REQUIREMENTS**

- 2.1 The Purchaser may order any variation to any part of the Services that for any other reason shall in the Purchaser's opinion be desirable. Any such variation may include (but shall not be restricted to) additions, omissions, alterations, substitutions to the Services and changes in quality, form, character, kind, timing, method or sequence of the Services.
- 2.2 Save as otherwise provided herein, no variation of the Services as provided for in Condition 2.1 hereof shall be valid unless given or confirmed in the form of an order given by the Purchaser. All such orders shall be given in writing provided that if for any reason the Purchaser shall find it necessary to give any such order orally in the first instance the Supplier shall comply with such oral order which must be confirmed in writing by the Purchaser within 2 working days of the giving of such oral order by the Purchaser, failing which the variation made by such oral order shall cease to have effect on the expiry of the said 2 working day period.
- 2.3 Where any such variation of the Services made in accordance with Condition 2.1 and 2.2 has affected or may affect the costs incurred by the Supplier in providing the Services, the Supplier will notify the Purchaser in writing of the effect which it has had or may have on the said costs and such notification shall be considered by the Purchaser, who shall take all of the facts into account (including such information as may be provided by the Supplier in respect of the effect which such variation has had or may have on the costs incurred by the Supplier in providing the service) and may authorise such alteration to the sums to be paid to the Supplier in accordance with the provisions of the Contract as are, in the Purchaser's opinion, appropriate and reasonable in the circumstances.

## **3. INSPECTION OF PREMISES AND NATURE OF SERVICES**

- 3.1 The Supplier is deemed to have inspected the Premises before tendering so as to have understood the nature and extent of the Services to be carried out and is deemed to be satisfied in relation to all matters connected with the Services and Premises.
- 3.2 The Purchaser shall, at the request of the Supplier, grant such access as may be reasonable for this purpose.

#### 4. SECURITY AND ACCESS TO THE PURCHASER'S PREMISES

- 4.1 Any access to, or occupation of, the Purchaser's premises which the Purchaser may grant the Supplier from time to time is on a non-exclusive licence basis free of charge. The Supplier must use the Purchaser's premises solely for the purpose of performing its obligations under the Contract and must limit access to the Purchaser's premises to such individuals as are necessary for that purpose.
- 4.2 The Supplier must comply with the Purchaser's policies concerning Baseline Personnel Security Standard checks and such modifications to those policies or replacement policies as are notified to the Supplier from time to time.
- 4.3 The Supplier must notify the Purchaser of any matter or other change in circumstances which might adversely affect future Baseline Personnel Security Standard clearance.
- 4.4 At the Purchaser's written request, the Supplier must provide a list of the names and addresses of all persons who may require admission to the Purchaser's premises in connection with the Contract, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Purchaser may reasonably request.
- 4.5 The Supplier must ensure that any individual Supplier Representative entering the Purchaser's premises has completed the process for obtaining Baseline Personnel Security Standard clearance. The Supplier acknowledges that the Purchaser has the right to deny entry to any individual that has not completed the process for obtaining Baseline Personnel Security Standard clearance.
- 4.6 In accordance with the Purchaser's policies concerning visitor access, entry to the Purchaser's premises may be granted to individual Supplier Representatives for the purposes of meetings, notwithstanding that the process for obtaining Baseline Personnel Security Standard clearance has not commenced or completed.
- 4.7 The Purchaser may, by notice to the Supplier, refuse to admit onto, or withdraw permission to remain on, the Purchaser's premises any Supplier Representative whose admission or continued presence would, in the opinion of the Purchaser acting reasonably, be undesirable.
- 4.8 The Purchaser must provide advice and assistance acting reasonably to the Supplier to facilitate the Supplier's compliance with this Condition.
- 4.9 All decisions of the Purchaser under this Condition are final and conclusive.
- 4.10 Breach of this Condition by the Supplier is a material breach for the purposes of condition 19.2 (Termination).

In this Condition 4 the following terms have the meanings given to them below:

'Baseline Personnel Security Standard' means the pre-employment controls for all civil servants, members of the Armed Forces, temporary staff and government contractors generally.

'Supplier Representatives' means all persons engaged by the Supplier in the performance of its obligations under the Contract including:

- its employees and workers (including persons employed by a third party but working for and under the control of the Supplier);
- its agents, suppliers and carriers; and
- any sub-contractors of the Supplier (whether approved under Condition 21 (Assignment and sub-contracting) or otherwise)

## **5. SUPPLIER'S STATUS**

In carrying out the Services the Supplier shall be acting as principal and not as the agent of the Purchaser. Accordingly:

- (a) the Supplier shall not (and shall procure that the Supplier's agents and servants do not) say or do anything that might lead any other person to believe that the Supplier is acting as the agent of the Purchaser, and
- (b) nothing in this Contract shall impose any liability on the Purchaser in respect of any liability incurred by the Supplier to any other person but this shall not be taken to exclude or limit any liability of the Purchaser to the Supplier that may arise by virtue of either a breach of this Contract or any negligence on the part of the Purchaser, or the Purchaser's staff or agents.

## **6. SUPPLIER'S PERSONNEL**

- 6.1 The Supplier shall take the steps reasonably required by the Purchaser to prevent unauthorised persons being admitted to the Premises. If the Purchaser gives the Supplier notice that any person is not to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed from involvement in the performance of the Contract, the Supplier shall take all reasonable steps to comply with such notice and if required by the Purchaser the Supplier shall replace any person removed under this Condition with another suitably qualified person and procure that any pass issued to the person removed is surrendered.
- 6.2 If and when instructed by the Purchaser, the Supplier shall give to the Purchaser a list of names and addresses of all persons who are or may be at any time concerned with the Services or any part of them, specifying the capacities in which they are so concerned, and giving such other particulars and evidence of identity and other supporting evidence as the Purchaser may reasonably require.
- 6.3 The decision of the Purchaser shall be final and conclusive as to whether any person is to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed from involvement in the performance of the Contract and as to whether the Supplier has furnished the information or taken the steps required of the Supplier by this Condition.
- 6.4 The Supplier shall bear the cost of any notice, instruction or decision of the Purchaser under this Condition.

## **7. MANNER OF CARRYING OUT THE SERVICES**

- 7.1 The Supplier shall make no delivery of materials, plant or other things nor commence any work on the Premises without obtaining the Purchaser's prior consent.
- 7.2 Access to the Premises shall not be exclusive to the Supplier but only such as shall enable the Supplier to carry out the Services concurrently with the execution of work by others. The Supplier shall co-operate with such others as the Purchaser may reasonably require.
- 7.3 The Purchaser shall have the power at any time during the progress of the Services to order in writing:
  - (a) the removal from the Premises of any materials which in the opinion of the Purchaser are either hazardous, noxious or not in accordance with the Contract, and/or
  - (b) the substitution of proper and suitable materials, and/or

- (c) the removal and proper re-execution notwithstanding any previous test thereof or interim payment therefor of any work which, in respect of material or workmanship is not in the opinion of the Purchaser in accordance with the Contract.

7.4 The Supplier shall forthwith comply with any order made under Condition 7.3.

7.5 On completion of the Services the Supplier shall remove the Supplier's plant, equipment and unused materials and shall clear away from the Premises all rubbish arising out of the Services and leave the Premises in a neat and tidy condition.

## **8. HEALTH AND SAFETY**

The Supplier shall perform the Services in such a manner as to be safe and without risk to the health or safety of persons in the vicinity of the place where the Services are being performed (whether such persons are in the vicinity of the said place at the time when the Services are being performed or otherwise) and in such a manner as to comply with any relevant health and safety or other legislation (including Statutory Instrument, Orders, or Regulations made under the said legislation) and any requirements imposed by a local or other regulatory authority in connection with the performance of services of the type supplied to the Purchaser, whether specifically or generally. The Supplier shall indemnify the Purchaser and the Crown against all actions, suits, claims, demands, losses, charges, costs and expenses which the Purchaser or the Crown may suffer or incur as a result of or in connection with any breach of this Condition.

## **9. TIME OF PERFORMANCE**

The Supplier shall begin performing the Services on the date stated in the Purchase Order and shall complete the Services by the date stated in the Purchase Order or continue to perform them for the period stated in the Purchase Order (whichever is applicable). Time is of the essence of the Contract. The Purchaser may by written notice require the Supplier to execute the Services in such order as the Purchaser may decide. In the absence of such notice the Supplier shall submit such detailed programmes of work and progress reports as the Purchaser may from time to time require.

## **10. PAYMENT**

10.1.1 Unless otherwise stated in the Contract, payment will be made within 30 days of receipt and agreement of invoices, submitted monthly in arrears, for work completed to the satisfaction of the Purchaser.

10.1.2 In this Condition 10, 'invoice' includes an electronic invoice meeting all requirements set out in regulation 70A of the Public Contracts (Scotland) Regulations 2015 or regulation 44A of the Concession Contracts (Scotland) Regulations 2016.

10.2 Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge.

10.3 Notwithstanding Condition 21 (Assignment and sub-contracting) of this Contract the Supplier may assign to another person (an "assignee") the right to receive payment of the Price or any part thereof due to the Supplier under this Contract subject to (i) deduction of sums in respect of which the Purchaser exercises the right of recovery under Condition 20 (Recovery of sums due) of this Contract and (ii) all the related rights of the Purchaser under this Contract in relation to the recovery of sums due but unpaid. The Supplier shall notify or procure that any assignee notifies the Purchaser of any variations to the arrangements for payment of the Price or for handling invoices, in each case in good time to enable the Purchaser to redirect payments or invoices accordingly. In the absence of such notification the Purchaser shall be under



no obligation to vary the arrangements for payment of the Price or for handling invoices.

#### **11. FREE-ISSUE MATERIALS**

Where the Purchaser for the purpose of the Contract issues materials free of charge to the Supplier such materials shall be and remain the property of the Purchaser. The Supplier shall maintain all such materials in good order and condition and shall use such materials solely in connection with the Contract. The Supplier shall notify the Purchaser of any surplus materials remaining after completion of the Services and shall dispose of them as the Purchaser may direct. Waste of such materials arising from bad workmanship or negligence of the Supplier or any of the Supplier's servants, agents or sub-contractors shall be made good at the Supplier's expense. Without prejudice to any other of the rights of the Purchaser, the Supplier shall deliver up such materials whether processed or not to the Purchaser on demand.

#### **12. AUDIT**

- 12.1 The Supplier shall keep and maintain until 5 years after the Contract has been completed records to the satisfaction of the Purchaser of all expenditures which are reimbursable by the Purchaser and of the hours worked and costs incurred in connection with any employees of the Supplier paid for by the Purchaser on a time charge basis. The Supplier shall on request afford the Purchaser or the Purchaser's representatives such access to those records as may be required by the Purchaser in connection with the Contract.
- 12.2 The provisions of this Condition 12 shall apply during the continuance of this Contract and after its termination howsoever arising.

#### **13. CORRUPT GIFTS OR PAYMENTS**

The Supplier shall not offer or give, or agree to give, to any employee or representative of the Purchaser any gift or consideration of any kind as an inducement or reward for doing or refraining from doing or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other contract with the Purchaser or for showing or refraining from showing favour or disfavour to any person in relation to this or any such contract. The attention of the Supplier is drawn to the criminal offences created by the Bribery Act 2010.

#### **14. INTELLECTUAL PROPERTY RIGHTS**

- 14.1 All Intellectual Property Rights in any material including but not limited to reports, guidance, specification, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs which are created or developed by the Supplier on behalf of the Purchaser for use, or intended use, in relation to the performance by the Supplier of its obligations under the Contract are hereby assigned to and shall vest in the Crown absolutely.
- 14.2 Except as may expressly be provided for in the Contract, neither party acquires any interest in or license to use the other party's Intellectual Property Rights owned or developed prior to or independently of the Contract.
- 14.3 The Supplier must not infringe any Intellectual Property Rights of any third party in providing the Services or otherwise performing its obligations under the Contract. The Supplier shall indemnify the Purchaser against all actions, claims, demands, losses, charges, costs and expenses which the Purchaser may suffer or incur as a result of or in connection with any breach of this Condition 14.3.

- 14.4 The provisions of this Condition 14 shall apply during the continuance of this Contract and after its termination howsoever arising.

## **15. INDEMNITY AND INSURANCE**

- 15.1 Without prejudice to any rights or remedies of the Purchaser the Supplier shall indemnify the Purchaser and the Crown against all actions, suits, claims, demands, losses, charges, costs and expenses which the Purchaser or the Crown may suffer or incur as a result of or in connection with any damage to property or in respect of any injury (whether fatal or otherwise) to any person which may result directly or indirectly from any negligent or wrongful act or omission of the Supplier.
- 15.2 The Purchaser shall indemnify the Supplier in respect of all claims, proceedings, actions, damages, fines, costs, expenses or other liabilities which may arise out of, or in consequence of, a breach of the Data Protection Laws where the breach is the direct result of the Supplier acting in accordance with the Purchaser's specific written instructions. This indemnity provision shall not apply if the Supplier-
- (a) acts on the Purchaser's specific written instructions but fails to notify the Purchaser in accordance with Condition 28.11(c) of this Contract;
  - (b) fails to comply with any other obligation under the Contract.
- 15.3 Except in the case of loss, damage or personal injury (including death) suffered by an employee of the Supplier (in respect of which the indemnity in Condition 15.1 shall apply whether or not the loss, damage or personal injury was caused by the negligent or wilful act or omission of the Purchaser, the Crown or any servant or agent of the Crown) the indemnity contained in Condition 15.1 shall not apply to the extent that the loss, damage or injury is caused by the negligent or wilful act or omission of the Purchaser, the Crown or any servant or agent of the Crown.
- 15.4 The Supplier shall have in force and shall require any sub-Contractor to have in force:
- (a) employer's liability insurance in accordance with any legal requirements for the time being in force, and
  - (b) public liability insurance for such sum and range of cover as the Supplier deems to be appropriate but covering at least all matters which are the subject of indemnities or compensation obligations under these Conditions in the sum of not less than £1 million for any one incident and unlimited in total, unless otherwise agreed by the Purchaser in writing.
- 15.5 The policy or policies of insurance referred to in Condition 15.4 shall be shown to the Purchaser whenever the Purchaser requests, together with satisfactory evidence of payment of premiums, including the latest premium due thereunder.

## **16. DISCRIMINATION**

The Supplier must not unlawfully discriminate against any person within the meaning of the Equality Act 2010 in its activities relating to the Contract or any other contract with the Purchaser.

## **17. BLACKLISTING**

The Supplier must not commit any breach of the Employment Relations Act 1999 (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992, or commit any breach of the Data Protection Laws by unlawfully processing personal data in connection with any blacklisting activities. Breach of this Condition is a material default which

shall entitle the Purchaser to terminate the Contract

## **18. OFFICIAL SECRETS ACT, CONFIDENTIALITY, AND ACCESS TO GOVERNMENT INFORMATION**

- 18.1 The Supplier undertakes to abide and procure that the Supplier's employees abide by the provisions of the Official Secrets Acts 1911 to 1989.
- 18.2 The Supplier shall keep secret and not disclose and shall procure that the Supplier's employees keep secret and do not disclose any information of a confidential nature obtained by the Supplier by reason of this Contract except information which is in the public domain otherwise than by reason of a breach of this provision.
- 18.3 All information related to the Contract will be treated as commercial in confidence by the parties except that:
- (a) The Supplier may disclose any information as required by law or judicial order to be disclosed.
  - (b) The Purchaser may disclose any information as required by law or judicial order to be disclosed. Further, the Purchaser may disclose all information obtained by the Purchaser by virtue of the Contract to the Scottish or United Kingdom Parliament or any other department, office or agency of Her Majesty's Government in Scotland or the United Kingdom, and their servants or agents. When disclosing such information to either the Scottish Parliament or the United Kingdom Parliament it is recognised and agreed by both parties that the Purchaser shall if the Purchaser sees fit disclose such information but is unable to impose any restrictions upon the information that the Purchaser provides to Members of the Scottish Parliament, (MSPs) or Members of the United Kingdom Parliament (MPs). Such disclosure shall not be treated as a breach of this Contract.
- 18.4 The provisions of this Condition 18 shall apply during the continuance of this Contract and after its termination howsoever arising.
- 18.5 The Parties acknowledge that, except for any Information which is exempt from disclosure in accordance with the provisions of the FOISA, the content of the Contract is not confidential information and the Supplier hereby gives its consent for the Purchaser to publish the Contract in its entirety to the general public (but with any Information that is exempt from disclosure in accordance with the FOISA redacted) including any changes to the Contract agreed from time to time

## **19. TERMINATION**

- 19.1 The Supplier shall notify the Purchaser in writing immediately upon the occurrence of any of the following events:
- (a) where the Supplier is an individual and if a petition is presented for the Supplier's bankruptcy or the sequestration of the Supplier's estate or a criminal bankruptcy order is made against the Supplier, or the Supplier is apparently insolvent, or makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignation for the benefit of creditors, or if an administrator or trustee is appointed to manage the Supplier's affairs; or
  - (b) where the Supplier is not an individual but is a firm, or a number of persons acting together in any capacity, if any event in (a) or (c) of this Condition occurs in respect of the firm or any partner in the firm or any of those persons

or a petition is presented for the Supplier to be wound up as an unregistered company; or

- (c) where the Supplier is a company, if the company passes a resolution for winding-up of dissolution (otherwise than for the purposes of and followed by an amalgamation or reconstruction) or the court makes an administration order or a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrator, administrative receiver, receiver or manager is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a floating charge.

19.2 On the occurrence of any of the events described in Condition 19.1 or, if the Supplier shall have committed a material breach of this Contract and (if such breach is capable of remedy) shall have failed to remedy such breach within 30 days of being required by the Purchaser in writing to do so or, where the Supplier is an individual if the Supplier shall die or be adjudged incapable of managing his or her affairs within the meaning of the Adults with Incapacity (Scotland) Act 2000 or the Mental Health (Care and Treatment) (Scotland) Act 2003, the Purchaser shall be entitled to terminate this Contract by notice to the Supplier with immediate effect. Thereupon, without prejudice to any other of the Purchaser's rights, the Purchaser may complete the Services or have them completed by a third party, using for that purpose (making a fair and proper allowance therefor in any payment subsequently made to the Supplier) all materials, plant and equipment on the Premises belonging to the Supplier, and the Purchaser shall not be liable to make any further payment to the Supplier until the Services have been completed in accordance with the requirements of the Contract, and shall be entitled to deduct from any amount due to the Supplier the costs thereof incurred by the Purchaser (including the Purchaser's own costs). If the total cost to the Purchaser exceeds the amount (if any) due to the Supplier, the difference shall be recoverable by the Purchaser from the Supplier.

19.3 The Purchaser may terminate the Contract in the event that:

- (a) the Contract has been subject to substantial modification which would have required a new procurement procedure in accordance with regulation 72(9) (modification of contracts during their term) of The Public Contracts (Scotland) Regulations 2015;
- (b) the Supplier has, at the time of contract award, been in one of the situations referred to in regulation 58(1) (exclusion grounds) of The Public Contracts (Scotland) Regulations 2015, including as a result of the application of regulation 58(2) of those regulations, and should therefore have been excluded from the procurement procedure; or
- (c) the Contract should not have been awarded to the Supplier in view of a serious infringement of the obligations under the Treaties and the Directive 2014/24/EU that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the Treaty on the Functioning of the European Union.

In this Condition, 'the Treaties' has the meaning given in the European Communities Act 1972.

19.4 The Purchaser may also terminate the Contract in the event of a failure by the Supplier to comply in the performance of the Services with legal obligations in the fields of environmental, social and employment law.

19.5 In addition to the Purchaser's rights of termination under Condition 19.2, 19.3 and 19.4, the Purchaser shall be entitled to terminate this Contract by giving to the Supplier not less than 30 days notice to that effect.

- 19.6 Termination under Condition 19.2, 19.3, 19.4 or 19.5 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereupon accrue to the Purchaser and shall not affect the continued operation of Conditions 12(Audit), 14 (Intellectual Property Rights), 18 (Official Secrets Acts, etc.), 27 (TUPE) and 28 (Data Protection).

## **20. RECOVERY OF SUMS DUE**

Wherever under this Contract any sum of money is recoverable from or payable by the Supplier, that sum may be deducted from any sum then due, or which at any later time may become due, to the Supplier under this Contract or under any other agreement or contract with the Purchaser or with any department, agency or authority of the Crown.

## **21. ASSIGNATION AND SUB-CONTRACTING**

- 21.1 The Supplier shall not assign or sub-contract any portion of the Contract without the prior written consent of the Purchaser. Sub-contracting any part of the Contract shall not relieve the Supplier of any obligation or duty attributable to the Supplier under the Contract or these Conditions.
- 21.2 Where the Purchaser has consented to the placing of sub-contracts, copies of each sub-contract shall be sent by the Supplier to the Purchaser immediately it is issued.
- 21.3 Where the Supplier enters into a sub-contract must ensure that a provision is included which:
- 21.3.1 requires payment to be made of all sums due by the Supplier to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice as defined by the sub-contract requirements and provides that, where the Purchaser has made payment to the Supplier in respect of Services and the sub-contractor's invoice relates to such Services then, to that extent, the invoice must be treated as valid and, provided the Supplier is not exercising a right of retention or set-off in respect of a breach of contract by the sub-contractor or in respect of a sum otherwise due by the sub-contractor to the Supplier, payment must be made to the sub-contractor without deduction;
  - 21.3.2 notifies the sub-contractor that the sub-contract forms part of a larger contract for the benefit of the Purchaser and that should the sub-contractor have any difficulty in securing the timely payment of an invoice, that matter may be referred by the sub-contractor to the Purchaser; and
  - 21.3.3 in the same terms as that set out in this Condition 21.3 (including for the avoidance of doubt this Condition 21.3.3) subject only to modification to refer to the correct designation of the equivalent party as the Supplier and sub-contractor as the case may be.
- 21.4 The Supplier shall also include in every sub-contract:
- 21.4.1 a right for the Supplier to terminate that sub-contract if the relevant sub-contractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or employment law or if any of the termination events (involving substantial modification of the Contract, contract award despite the existence of exclusion grounds or a serious infringement of EU legal obligations) specified in Condition 19.3 occur; and
  - 21.4.2 a requirement that the sub-contractor includes a provision having the same effect as 21.4.1 above in any sub-contract which it awards.

In this Condition 21.4, 'sub-contract' means a contract between two or more suppliers, at any stage of remoteness from the Purchaser in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract.

## **22. NOTICES**

Any notice given under or pursuant to the Contract may be sent by hand or by post or by registered post or by the recorded delivery service or transmitted by telex, telemessage facsimile transmission or other means of telecommunication resulting in the receipt of a written communication in permanent form and if so sent or transmitted to the address of the party shown on the Purchase Order, or to such other address as the party may by notice to the other have substituted therefor, shall be deemed effectively given on the day when in the ordinary course of the means of transmission it would first be received by the addressee in normal business hours.

## **23. COMPLIANCE WITH THE LAW ETC.**

In providing the Services and otherwise when performing the Contract, the Supplier must comply in all respects with:

- 23.1 all applicable law;
- 23.2 any applicable requirements of regulatory bodies; and
- 23.3 Good Industry Practice.

In this Condition, 'Good Industry Practice' means standards, practices, methods and procedures conforming to legal and regulatory requirements and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking as the Supplier under the same or similar circumstances.

## **24. DISPUTE RESOLUTION**

- 24.1 The parties must attempt in good faith to resolve any dispute between them arising out of or in connection with the Contract.
- 24.2 Any dispute or difference arising out of or in connection with the Contract, including any question regarding its existence, validity or termination which cannot be resolved in good faith, shall be determined by the appointment of a single arbitrator to be agreed between the parties, and failing agreement within 14 days after either party has given to the other a written request to concur in the appointment of an arbitrator, by an arbitrator to be appointed by the Scottish Arbitration Centre on the written application of either party. The seat of the arbitration shall be in Scotland. The language used in the arbitral proceedings shall be English.
- 24.3 Any arbitration under 24.2 is subject to the Arbitration (Scotland) Act 2010.

## **25. HEADINGS**

The headings to Conditions shall not affect their interpretation.

## **26. GOVERNING LAW**

These Conditions shall be governed by and construed in accordance with Scottish law and the Supplier hereby irrevocably submits to the jurisdiction of the Scottish courts. The

submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Purchaser to take proceedings against the Supplier in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

## **27. TUPE**

- 27.1 The Supplier recognises that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply in respect of the Contract, and that for the purposes of those Regulations, the undertaking concerned (or any relevant part of the undertaking) shall (a) transfer to the Supplier on the commencement of the Contract; (b) transfer to another supplier on the expiry of the Contract.
- 27.2 During the period of six months preceding the expiry of the Contract or after the Purchaser has given notice to terminate the Contract or the Supplier stops trading, and within 20 working days of being so requested by the Purchaser, the Supplier shall fully and accurately disclose to the Purchaser or to any person nominated by the Purchaser information relating to employees engaged in providing the Services in relation to the Contract in particular, but not necessarily restricted to, the following:
- (a) the total number of personnel whose employment with the Supplier is liable to be terminated at the expiry of this Contract but for any operation of law; and
  - (b) for each person, age and gender, details of their salary, date of commencement of continuous employment and pay settlements covering that person which relate to future dates but which have already been agreed and their redundancy entitlements (the names of individual members of staff do not have to be given); and
  - (c) information about the other terms and conditions on which the affected staff are employed, or about where that information can be found; and
  - (d) details of pensions entitlements, if any.
- 27.3 The Supplier shall permit the Purchaser to use the information for the purposes of TUPE and of re-tendering, which shall include such disclosure to potential suppliers as the Purchaser considers appropriate in connection with any re-tendering. The Supplier will co-operate with the re-tendering of the contract by allowing the transferee to communicate with and meet the affected employees and/or their representatives.
- 27.4 The Supplier agrees to indemnify the Purchaser fully and to hold it harmless at all times from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities whatsoever in any way connected with or arising from or relating to the provision or disclosure of information permitted under this Condition.
- 27.5 In the event that the information provided by the Supplier in accordance with this Condition becomes inaccurate, whether due to changes to the employment and personnel details of the affected employees made subsequent to the original provision of such information or by reason of the Supplier becoming aware that the information originally given was inaccurate, the Supplier shall notify the Purchaser of the inaccuracies and provide the amended information. The Supplier shall be liable for any increase in costs the Purchaser may incur as a result of the inaccurate or late production of data.
- 27.6 The provisions of this Condition 27 shall apply during the continuance of this Contract and after its termination howsoever arising.

## 28. Data Protection

- 28.1 The Supplier acknowledges that Personal Data described in the scope of the Schedule (Data Protection) may be Processed in connection with the Services under this Contract. For the purposes of any such Processing, Parties agree that the Supplier acts as the Data Processor and the Purchaser acts as the Data Controller.
- 28.2 Both Parties agree to negotiate in good faith any such amendments to this Contract that may be required to ensure that both Parties meet all their obligations under Data Protection Laws. The provisions of this Condition 28 are without prejudice to any obligations and duties imposed directly on the Supplier under Data Protection Laws and the Supplier hereby agrees to comply with those obligations and duties.
- 28.3 The Supplier will, in conjunction with the Purchaser and in its own right and in respect of the Services, make all necessary preparations to ensure it will be compliant with Data Protection Laws.
- 28.4 The Supplier will provide the Purchaser with the contact details of its data protection officer or other designated individual with responsibility for data protection and privacy to act as the point of contact for the purpose of observing its obligations under the Data Protection Laws.
- 28.5 The Supplier must:
- 28.5.1 process Personal Data only as necessary in accordance with obligations under the Contract and any written instructions given by the Purchaser (which may be specific or of a general nature), including with regard to transfers of Personal Data outside the European Economic Area unless required to do so by European Union or Member state law or Regulatory Body to which the Supplier is subject; in which case the Supplier must, unless prohibited by that law, inform the Purchaser of that legal requirement before processing the Personal Data only to the extent, and in such manner as is necessary for the performance of the Supplier's obligations under this Contract or as is required by the law;
  - 28.5.2 subject to Condition 28.5.1 only process or otherwise transfer any Personal Data in or to any country outside the European Economic Area with the Purchaser's prior written consent;
  - 28.5.3 take all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that the Supplier Personnel:
    - (a) are aware of and comply with the Supplier's duties under this Condition;
    - (b) are subject to appropriate confidentiality undertakings with the Supplier or the relevant Sub-contractor;
    - (c) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Purchaser or as otherwise permitted by this Contract; and
    - (d) have undergone adequate training in the use, care, protection and handling of Personal Data.
  - 28.5.4 implement appropriate technical and organisational measures in accordance with Article 32 of the GDPR to protect Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage,



alteration or disclosure, such measures being appropriate to the harm which might result from any unauthorised or unlawful Processing accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected.

- 28.6 The Supplier shall not engage a sub-contractor to carry out Processing in connection with the Services without prior specific or general written authorisation from the Purchaser. In the case of general written authorisation, the Supplier must inform the Purchaser of any intended changes concerning the addition or replacement of any other sub-contractor and give the Purchaser an opportunity to object to such changes.
- 28.7 If the Supplier engages a sub-contractor for carrying out Processing activities on behalf of the Purchaser, the Supplier must ensure that same data protection obligations as set out in this Contract are imposed on the sub-contractor by way of a written and legally binding contract, in particular providing sufficient guarantees to implement appropriate technical and organisational measures. The Supplier shall remain fully liable to the Purchaser for the performance of the sub-contractor's performance of the obligations.
- 28.8 The Supplier must provide to the Purchaser reasonable assistance including by such technical and organisational measures as may be appropriate in complying with Articles 12-23 of the GDPR.
- 29.9 The Supplier must notify the Purchaser if it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
  - (b) receives a request to rectify, block or erase any Personal Data;
  - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Laws;
  - (d) receives any communication from the Supervisory Authority or any other regulatory authority in connection with Personal Data processed under this Contract; or
  - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by law or regulatory order;
- and such notification must take place as soon as is possible but in any event within 3 business days of receipt of the request or any other period as agreed in writing with the Purchaser from time to time.
- 28.10 Taking into account the nature of the Processing and the information available, the Supplier must assist the Purchaser in complying with the Purchaser's obligations concerning the security of personal data, reporting requirements for data breaches, data protection impact assessments and prior consultations in accordance with Articles 32 to 36 of the GDPR. These obligations include:
- (a) ensuring an appropriate level of protection through technical and organisational measures that take into account the circumstances and purposes of the processing as well as the projected probability and severity of a possible infringement of the law as a result of security vulnerabilities and that enable an immediate detection of relevant infringement events.
  - (b) notifying a Personal Data breach to the Purchaser without undue delay and in any event no later than 24 hours after becoming aware of a Personal Data breach;

- (c) assisting the Purchaser with communication of a personal data breach to a Data Subject;
- (d) supporting the Purchaser with preparation of a data protection impact assessment;
- (e) supporting the Purchaser with regard to prior consultation of the Supervisory Authority.

28.11 At the end of the provision of Services relating to processing the Supplier must, on written instruction of the Purchaser, delete or return to the Purchaser all Personal Data and delete existing copies unless EU or Member State law requires storage of the Personal Data.

28.12 The Supplier must:

- (a) provide such information as is necessary to enable the Purchaser to satisfy itself of the Supplier's compliance with this Condition 28;
- (b) allow the Purchaser, its employees, auditors, authorised agents or advisers reasonable access to any relevant premises, during normal business hours, to inspect the procedures, measures and records referred to in this Condition 28 and contribute as is reasonable to those audits and inspections;
- (c) inform the Purchaser, if in its opinion, an instruction from the Purchaser infringes any obligation under the Data Protection Laws.

28.13 The Supplier must maintain written records including in electronic form, of all Processing activities carried out in performance of the Services or otherwise on behalf of the Purchaser containing the information set out in Article 30(2) of the GDPR.

28.14 If requested, the Supplier must make such records referred to Condition 28.12 available to the Supervisory Authority on request and co-operate with the Supervisory Authority in the performance of its tasks.

28.15 Parties acknowledge that the inspecting party will use reasonable endeavours to carry out any audit or inspection under Condition 28.14 with minimum disruption to the Supplier's day to day business.

## SCHEDULE (Data Protection)

Data Processing provision as required by Article 28(3) GDPR.

This Schedule includes certain details of the Processing of Personal Data in connection with the Services:

*Subject matter and duration of the Processing of Personal Data*

The subject matter and duration of the Processing of Personal Data are [not applicable].

*The nature and purpose of the Processing of Personal Data*

[not applicable]

*The type of Personal Data to be Processed*

[not applicable]

*The categories of Data Subject to whom Personal Data relates*

[not applicable]

*The obligations and rights of the Purchaser*

The obligations and rights of the Purchaser as the Data Controller are set out in Condition 28 of the Contract.

**SUPPLEMENTARY NOTICE****LATE PAYMENT OF INVOICES**

Suppliers to the Scottish Government are requested to address complaints regarding late payment of invoices to, in the first instance, the addressee of the invoice and, in the second instance to the Director of Procurement, Area 3A South, Victoria Quay, Edinburgh EH6 6QQ. Telephone 0131-244-3878. This procedure is suggested as the best practical way of ensuring problems of late payment are resolved, and is not intended to interfere with Suppliers legal rights.

**THIS NOTICE DOES NOT FORM PART OF THE CONDITIONS OF CONTRACT**